

Report on the

# Alabama Plumbers and Gas Fitters Examining Board

Birmingham, Alabama



## Department of Examiners of Public Accounts

50 North Ripley Street, Room 3201  
P.O. Box 302251  
Montgomery, Alabama 36130-2251  
[www.examiners.alabama.gov](http://www.examiners.alabama.gov)

*Ronald L. Jones, Chief Examiner*



**State of Alabama**  
Department of  
**Examiners of Public Accounts**

Telephone (334) 242-9200  
FAX (334) 242-1775

**Ronald L. Jones**  
**Chief Examiner**

*Mailing Address:*  
P.O. Box 302251  
Montgomery, AL 36130-2251

*Location:*  
Gordon Persons Building  
50 North Ripley Street, Room 3201  
Montgomery, AL 36104-3833

October 19, 2011

Senator Paul Bussman  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, AL 36130

Dear Senator Bussman,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Alabama Plumbers and Gas Fitters Examining Board** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Alabama Plumbers and Gas Fitters Examining Board**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ronald L. Jones", is positioned above the printed name.

Ronald L. Jones  
Chief Examiner

Examiner:  
Robin Hutcheson



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# **PROFILE**

## **Purpose / Authority**

The Plumbers and Gas Fitters Examining Board was created by Act No. 1949-529 to regulate plumbers and later amended by Act No. 1987-812 to include gas fitters and again by Act 96-795 to provide for the certification of fitters of medical gas piping. The board operates under authority of the *Code of Alabama 1975*, Sections 34-37-1 through 34-37-18. The board examines, certifies, and regulates plumbers, gas fitters, and medical gas piping fitters.

The board's main regulatory effort is to visit jobsites to insure that persons doing the work of plumbers and gas fitters are certified by the board. The board does not inspect the work of certified plumbers and gas fitters or engage in disciplinary actions involving the professional work of certified plumbers and gas fitters.

<b><u>Characteristics</u></b>	
<b>Members and Selection</b>	<p>7 members appointed by the governor and confirmed by the Senate.</p> <p>Currently there are no board members (<i>See Significant Issue 2011-01</i>)</p> <p><i>Code of Alabama 1975</i>, Section 34-37-3</p>
<b>Term</b>	<p>The governor shall designate the length of term for each member of his or her appointees not to exceed four years.</p> <p>Members shall serve until the expiration of their respective terms of office and shall vacate office on that date.</p> <p><i>Code of Alabama 1975</i>, Section 34-37-3</p>
<b>Qualifications</b>	<ul style="list-style-type: none"><li>• One Master Plumber</li><li>• One Journeyman Plumber</li><li>• One Registered Professional Engineer (licensed by the State Board of Registration of Professional Engineers and Land Surveyors)</li><li>• One Municipal or County Building Official</li><li>• One Master Gas Fitter</li><li>• One Journeyman Gas Fitter</li><li>• One Public at Large member</li></ul> <p>Each member of the board shall be a citizen of the state.</p> <p><i>Code of Alabama 1975</i>, Section 34-37-3</p>
<b>Racial Representation</b>	<p>No statutory requirement.</p>

<b>Geographical Representation</b>	No statutory requirement
<b>Consumer Representation</b>	<p>One public-at-large member who must not be engaged or otherwise connected to the plumbing or gas industry; the installation of plumbing or gas work; nor connected with any person, firm, or corporation handling or dealing in material, fixtures, or appliances connected with plumbing or gas work</p> <p><i>Code of Alabama 1975</i>, Section 34-37-3</p>
<b>Other Representation</b>	<p>The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural and economic diversity of the state.</p> <p><i>Code of Alabama 1975</i>, Section 34-37-3</p>
<b>Compensation</b>	<p>Two hundred dollars (\$200) per day for each day spent in active service for the board. Travel expense reimbursement is the same as for state employees.</p> <p><i>Code of Alabama 1975</i>, Section 34-37-4(a)</p>

### **Operations**

<b>Administrator</b>	<p>Alfred Tunstill, Executive Director, Unclassified merit system employee, appointed by the board. Annual Salary set by the board - \$93,891.84</p> <p><i>Code of Alabama 1975</i>, Section 34-37-4(a)</p>
<b>Location</b>	<p>11 West Oxmoor Rd. Suite 104 Birmingham, AL 35209 Phone (205) 945-4857</p> <p><b>Office Hours</b> Monday – Friday 8:00 am – 5:00 pm</p>
<b>Examinations</b>	<p>Journeyman and master level license applicants must pass an examination to be licensed. Apprentices are not required to take an examination.</p> <p>Examinations are prepared, administered, proctored, and graded by Professional Testing, Inc. Examination fees are paid to the board. Examinations are administered five times per year, with additional examinations given upon written request to the board, in Birmingham, Decatur, Mobile, Orange Beach, Prattville, and Tuscaloosa</p>

**Examinations (cntd)**

<b>Journeyman Gas Fitter</b>			
	Passed	Failed	% Passed
2007	130	135	49%
2008	112	137	45%
2009	110	158	41%
2010	119	156	43%
<b>Cumulative Totals</b>	<b>471</b>	<b>586</b>	<b>45%</b>

<b>Master Gas Fitter</b>			
	Passed	Failed	% Passed
2007	60	43	58%
2008	49	24	67%
2009	58	24	71%
2010	50	19	72%
<b>Cumulative Totals</b>	<b>217</b>	<b>110</b>	<b>66%</b>

<b>Journeyman Plumber</b>			
	Passed	Failed	% Passed
2007	260	463	36%
2008	280	295	49%
2009	210	186	53%
2010	167	217	43%
<b>Cumulative Totals</b>	<b>917</b>	<b>1,161</b>	<b>44%</b>

<b>Master Plumber</b>			
	Passed	Failed	% Passed
2007	206	118	64%
2008	168	115	59%
2009	174	66	73%
2010	177	80	69%
<b>Cumulative Totals</b>	<b>725</b>	<b>379</b>	<b>66%</b>

Information obtained from the Executive Secretary

A schedule of in-state educational institution graduates' performance on the examinations by educational institution is not available.

According to the board staff, the following institutions of higher education offer courses in plumbing and gas fitting: Beville State Community College in Sumiton, Bishop State Community College in Mobile, Calhoun Community College in Decatur, Lawson State Community College in Birmingham, and George Wallace Community College in Dothan.



<b>Licensees</b>	<table border="1"> <tr> <td>Apprentice</td><td>4,591</td></tr> <tr> <td>Journeyman Plumber</td><td>1,582</td></tr> <tr> <td>Journeyman Plumber / Gas Fitter</td><td>1,137</td></tr> <tr> <td>Master Plumber</td><td>2,183</td></tr> <tr> <td>Master Plumber / Gas Fitter</td><td>2,596</td></tr> <tr> <td>Journeyman Gas Fitter</td><td>1,341</td></tr> <tr> <td>Master Gas Fitter</td><td>1,011</td></tr> <tr> <td><b>Total</b></td><td><b>14,441</b></td></tr> </table> <p>As of July 14, 2011</p> <p><b>Note:</b> Of the above licensees, 232 journeyman/master licensees also have the medical gas endorsement  <i>Information obtained from board staff</i></p>	Apprentice	4,591	Journeyman Plumber	1,582	Journeyman Plumber / Gas Fitter	1,137	Master Plumber	2,183	Master Plumber / Gas Fitter	2,596	Journeyman Gas Fitter	1,341	Master Gas Fitter	1,011	<b>Total</b>	<b>14,441</b>
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<b>Reciprocity</b>	<p>The board's enabling statutes allow reciprocity with states having similar requirements for licensure in that state. However, the board does not have any reciprocal agreements with other states. According to the Executive Director, plumbing and gas fitting regulation is so diverse among the differing states that similarities are not sufficient to allow reciprocity.</p> <p><i>Code of Alabama 1975, Section 34-37-11</i></p>																
<b>Renewals</b>	<ul style="list-style-type: none"> <li>• All certificates expire on December 31 each year.</li> <li>• Certificates renewed after December 31 include a late penalty.</li> <li>• Persons serving in the armed forces are not required to pay any back years for a renewal certificate during the calendar year he or she is released from active duty. All other persons must pay fees for back years unless proof is furnished indicating that he person was not employed in the plumbing or gas fitting trade.</li> </ul> <p><i>Code of Alabama 1975, Section 34-37-9</i></p> <p><b>Percentage of online renewals:</b>  FY 2009 = 22.26%  FY2010 = 24.22%</p>																
<b>Continuing Education</b>	<p>No statutory requirement</p>																
<b>Employees</b>	<p>16 Full Time Employees</p> <ul style="list-style-type: none"> <li>• 15 classified merit system employees</li> <li>• 1 merit system unclassified (at will) employee</li> </ul>																
<b>Legal Counsel</b>	<p>Jack Wallace Jr., Employee of the Attorney General's Office.</p>																

<b>Subpoena Power</b>	<p>The board has the power to administer oaths, issue subpoenas, and compel the attendance of witnesses.</p> <p><i>Code of Alabama 1975</i>, Section 34-37-12</p>
<b>Internet Presence</b>	<p>The boards website is <a href="http://www.pgfb.alabama.gov/">http://www.pgfb.alabama.gov/</a> which includes:</p> <ul style="list-style-type: none"> <li>• Board Members (names only)</li> <li>• State Law, <i>Code of Alabama 1975</i>, Section 34-37-1 through 34-37-18</li> <li>• Board Rules – 720-X-1-.01 through 720-X-16-.01</li> <li>• Online Renewals - available from October 1, 2011 through December 31, 2011</li> <li>• Forms</li> <li>• Finding a Plumber or Gas Fitter</li> <li>• Medical Gas Information</li> <li>• Events and Exams – Date and time of next examination and board meeting</li> <li>• Requirements and Fees</li> <li>• Territories – Northern and Southern Territories the Compliance Supervisor for each and the Compliance officers in each territory.</li> <li>• Exam Preparation Guide</li> <li>• What’s happening (coming soon).</li> </ul> <p>The board does not have a Facebook or Twitter presence.</p>
<b>Attended Board Member Training</b>	<p>Attended board member training for fiscal years 2007-2010</p> <p>7 Board members</p> <p>4 Employees</p> <p>Deputy Director</p> <p>Executive Director</p>
<b><u>Financial</u></b>	
<b>Source of Funds</b>	<p>Licensing fees</p> <p><i>Code of Alabama 1975</i>, Section 34-37-9</p>
<b>State Treasury</b>	<p>Yes. Special Revenue Fund 0358</p> <p><i>Code of Alabama 1975</i>, Section 34-37-5(a)</p>
<b>Required Distributions</b>	<p>Any funds unspent and unencumbered at the end of each fiscal year that exceed 25 percent of the board’s budget for the previous fiscal year must be transferred to the State General Fund.</p>
<b>Unused Funds</b>	<p>Amounts remaining after required distributions are retained for the use of the board.</p> <p><i>Code of Alabama 1975</i>, Section 34-37-5(a)</p>

## **SIGNIFICANT ISSUES**

### **Significant Issue 2011 – 01:**

**The board's offices are operating without a board.** Act 2010 – 147 amended the *Code of Alabama 1975*, Section 34-37-3 to read “Commencing on March 4, 2010, members shall serve until the expiration of their respective terms of office and shall vacate office on that date.” At that time the terms of all but one of the board members had already expired and the members were serving past the end of their regular terms under a provision of the previous law which allowed members to serve beyond their terms until their successors took office.

In July 2010, the governor made new appointments to all of the board's positions, and the board members whose terms had expired vacated office, leaving one member whose term did not expire until October 1, 2010. The governor's new appointments consisted of five new members and two members who had been serving on the replaced board. A Legislative Special Session was convened in December 2010; however, none of the governor's appointees were confirmed by the Senate as required by the *Code of Alabama 1975*, Section 34-37-3.

On January 4, 2011, the governor appointed the same 7 members for confirmation during the 2011 Regular Legislative Session; however, the appointments did not clear the confirmations committee. *Senate Rule 32* states, “A rejection by the Committee on Confirmations of any nomination or appointment shall be considered a rejection by the entire Senate.” Therefore none of the board members were confirmed as required by the *Code of Alabama 1975*, Section 34-37-3.

Appointments made by the governor do not become effective until confirmed by the Senate. *Attorney General's Opinion* 2006-059 states, “...without any additional language, persons who are appointed "subject to Senate confirmation" do not take office until the Senate has taken action to confirm the appointment.” There is no additional language in the board's licensing law. The board's licensing law states only that, “Appointments shall be subject to confirmation by the Senate.” (*Code of Alabama 1975*, Section 34-37-3)

## **STATUS OF PRIOR FINDINGS / SIGNIFICANT ISSUES**

All prior significant issues / prior findings have been resolved except for the following:

### **Prior Significant Issue 2010-01**

The board's rule authorizing a bad check charge is insufficient to describe the board's policy of charging a \$30 penalty for receipt of a bad check. Board Rule 760-X-16-.01 states, “If a check or negotiable instrument is dishonored, the writer of the check or instrument will be required to tender payment of the full amount of such check or instrument plus a service charge as established by Section 8-8-15 of the Code of Ala. 1975.” The rule does not state the amount of the charge.

Statutory authority for a bad check charge is contained in the Code of Alabama 1975, Section 8-8-15(a), which provides that, “...the maximum bad check charge shall be thirty dollars (\$30)” Because the law sets an upper limit but does not set the amount of the charge, the board must by policy set the amount charged. The setting of the charge meets the definition of an administrative rule found in the state's Administrative Procedure Act. The Administrative Procedure Act in the Code of Alabama 1975, Section 41-22-3(9) defines a rule as, “Each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the

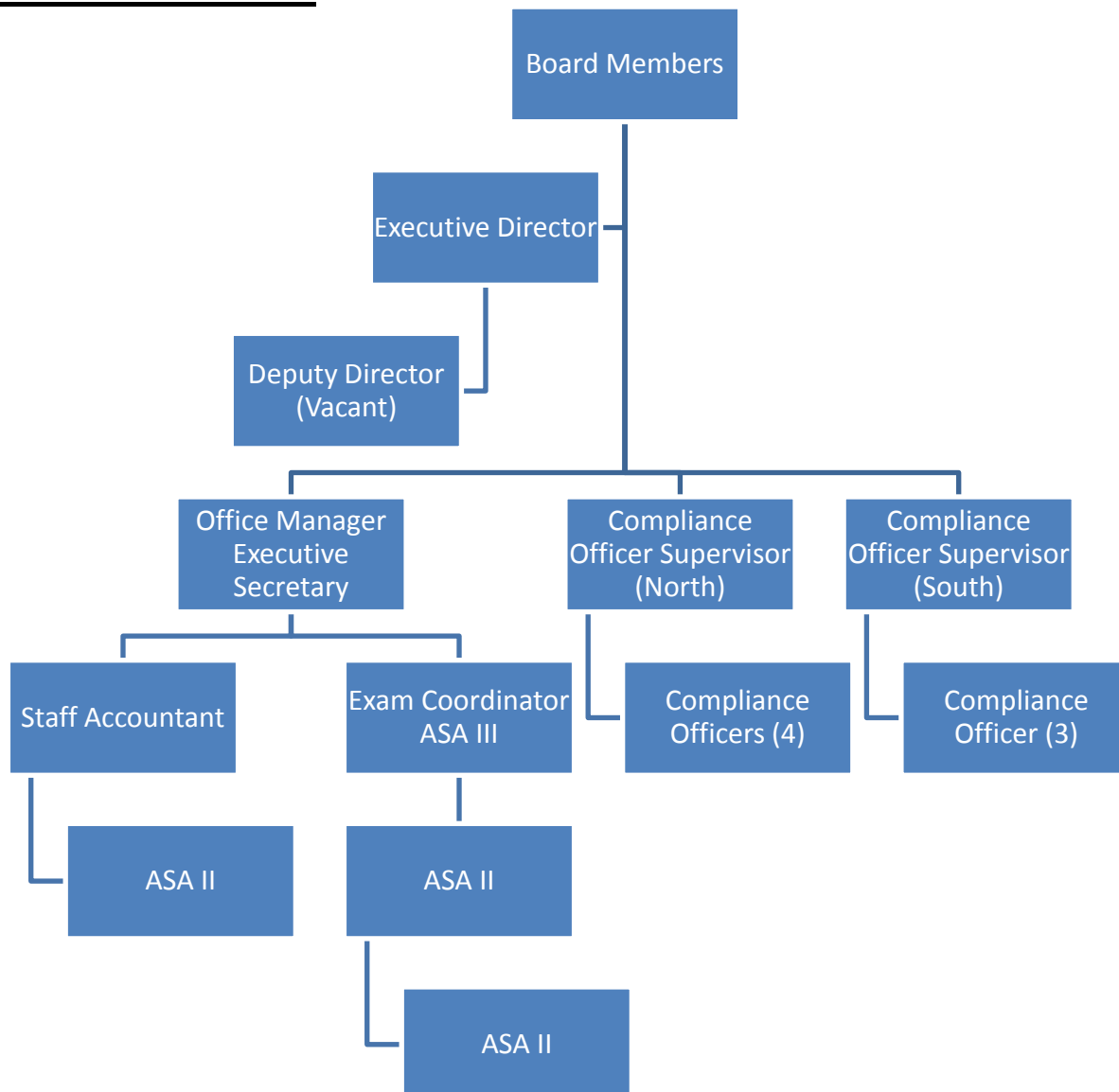
organization, procedure, or practice requirements of any agency...” Further, the Administrative Procedure Act provides in the Code of Alabama 1975, Section 41-22-4(b) that, “No agency rule, order, or decision shall be valid or effective against any person or party nor may it be invoked by the agency for any purpose until it has been made available for public inspection and indexed as required by this section and the agency has given all notices required by Section 41-22-5.”

The board’s rule merely restates the statute rather than establishing a bad check charge amount.

### **Current Status**

There have been no board members available to adopt the board’s new rule, since statutory amendments resulted in the board vacating office before final passage of the rule. The new rule would have stipulated a \$30 fee for a bad check charge. Since the new rule was never adopted, this is a continuing issue.

## **ORGANIZATION**



## **PERSONNEL**

	#	B/M	W/M	B/F	W/F
<b><u>Unclassified (At Will)</u></b>					
Executive Director	1		1		
Deputy Director (vacant)					
<b><u>Classified</u></b>					
Administrative Support Assistant II	3			2	1
Administrative Support Assistant III	1			1	
Staff Accountant	1			1	
Licensing / Registration Compliance Field Officer	7		6		1
Licensing / Registration Compliance Supervisor	2		2		
Executive Secretary	1				1
<b>Total</b>	<b>16</b>	<b>0</b>	<b>9</b>	<b>4</b>	<b>3</b>

W/M=white male, B/M=black male, B/F=black female, W/F=white female

### **Legal Counsel**

Legal counsel is provided by Jack Wallace, Jr., Assistant Attorney General, an employee of the Attorney General's Office.

## **PERFORMANCE CHARACTERISTICS**

**Number of Licensees per Employee** – 903 licensees per employee

### **Number of Persons per Licensee in Alabama and Surrounding States**

	<b>Alabama</b>	<b>Florida*</b>	<b>Georgia*</b>	<b>Mississippi*</b>	<b>Tennessee<sup>1</sup></b>
<b>Population</b>	<b>4,779,736</b>	<b>18,801,310</b>	<b>9,687,653</b>	<b>2,967,297</b>	<b>6,346,105</b>
Apprentice	4,591	N/A	N/A	N/A	Unknown
Journeyman Plumber	1,582	N/A	1,422	N/A	Unknown
Master Plumber	2,183	<sup>a</sup> Registered – 1,248 <sup>b</sup> Certified – 3,638	<sup>c</sup> Restricted – 731 Unrestricted – 3,973	190 Contractors	Unknown
Journeyman Gas Fitter	1,341	N/A	N/A	N/A	Unknown
Master Gas Fitter	1,011	N/A	N/A	24 Contractors	Unknown
Journeyman Plumber and Gas Fitter	1,137	N/A	N/A	N/A	Unknown
Master Plumber and Gas Fitter	2,596	N/A	N/A	454	Unknown
<b>Total</b>	<b>14,441</b>	<b>4,886</b>	<b>6,126</b>	<b>668</b>	
<b>Persons Per Licensee</b>	<b>331</b>	<b>3,848</b>	<b>1,581</b>	<b>4,442</b>	<b>Unable to compute</b>

\*As of July 14, 2011

**a.** Registered plumber = county exam and can only work in county where licensed

**b.** Certified plumber = state exam can work anywhere in state

**c.** Restricted = Master Plumber Class I licenses shall be restricted to plumbing involving single-family dwellings and one-level dwellings designed for not more than two families and commercial structures not to exceed 10,000 sq. ft. in area

**1.** No response from Tennessee

N/A = Does not offer license for these classifications

**Operating Disbursements per Licensee** - \$100.92 for Fiscal Year 2010

**Notification to Licensee of Board Decisions to Amend Administrative Rules**

The board complied with notification procedures prescribed in the state's Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are not specifically notified of proposed changes.

**Inspections**

The Plumbers and Gas Fitters Examining Board does not conduct inspections of work done by its licensees but does routinely inspect worksites to determine if persons actively engaged in the practice of plumbing and gas fitting are properly certified. The board's compliance officers issue a Notice of Violation to persons actively engaged in the practice of plumbing and gas fitting who are in violation of the board's rules.

<b>Violation</b>	<b>2011*</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>
No Certified Master Gas Fitter ( <i>Code of Alabama 1975</i> , Section 34-37-1(7))	0	3	0	0
No Certified Master Plumber ( <i>Code of Alabama 1975</i> , Section 34-37-1(8))	0	7	3	136
Wrongful use of Certificate ( <i>Code of Alabama 1975</i> ,Section 34-37-14(a))	0	0	1	0
No Certificate ( <i>Code of Alabama 1975</i> ,Section 34-37-6(a))	117	119	154	184
Apprentice Working W/O Supervisor on Site ( <i>Rule 720-X-11-.01</i> )	2	9	10	3
Master Plumber Supervising Worker who has no Current Certificate ( <i>Rule 720-X-12-.01</i> )	40	56	77	0
Master Gas Fitter Supervising Worker who has no Current Certificate ( <i>Rule 720-X-13-.01</i> )	4	2	2	0
Person not in possession of Certificate ( <i>Code of Alabama 1975</i> , section 34-37-8( c ))	0	1	7	0
Allowing someone else to use Certificate ( <i>Code of Alabama 1975</i> ,section 34-37-16(a))	1	0	0	0
<b>TOTAL</b>	<b>164</b>	<b>197</b>	<b>254</b>	<b>323</b>

\*As of July 6, 2011

Information obtained from the Executive Secretary

According to the Executive Director, the board does not have a formal, written policy regarding the issuance of Notices of Violation (NOV) or for seeking arrest warrants for violators of the board's rules and regulations.

Inspectors locate job sites by visiting city or county permit offices, by speaking to persons in supply houses about job sites, and by driving the area.

If the violator is not certified, the principal master plumber/gas fitter at the worksite is also issued an NOV for working employees without certification. If the principal master continues working employees who are not certified, he or she is summoned to the board's office for a probation hearing and placed on probation for one year. Additional violations by the principal master can result in an arrest warrant being sought or, an administrative hearing to suspend or revoke his or her certification.

## **COMPLAINT HANDLING**

### **Complaint Procedures**

<b>Initial Contact/Documentation</b>	<p>Complaints are accepted only when received on an official complaint form signed by the person(s) filing the complaint (including board staff). The official complaint form is available upon request or may be downloaded from the board's website.</p> <p>If a complaint is received by telephone or any other communication media, a complaint form is sent to the complainant to complete, sign, and return to the board. Complaints received without signatures are returned to the complainant for completion. An exception is made for complaints received from the Attorney General's Office. Complaints are not required to be notarized. The completed, signed complaint form is sent to the compliance officer supervisors for review. The compliance officer supervisors notify the complainant that the complaint has been received.</p>
<b>Anonymous Complaints</b>	The board does not accept anonymous complaints.
<b>Probable Cause Determination</b>	<p>All complaints are assigned to a compliance officer to investigate. If the action complained about (pricing, quality of work, timeliness, etc.) does not fall within the board's jurisdiction, the officer writes up his findings and a letter is sent to the complainant suggesting other authorities to contact. If the compliance officer assigned to the complaint finds probable cause of a violation of the board's laws or rules (unsupervised workers, non-certified workers, etc.) the officer can issue a Notice of Violation (NOV) or if the violation appears to be blatant disregard of rules or law, the officer will contact his or her supervisor. The supervisor can request an arrest warrant or a hearing before the board to determine if the board should suspend or revoke a certificate.</p>

<b>Investigative Process</b>	<p>Board members do not investigate complaints. To investigate complaints, the board's compliance officers contact site owners, contractors, licensees, and other workers as necessary. If the compliance officers determine that a violation has occurred, a compliance officer issues a notice of violation.</p> <p>If a violation is discovered during a routine worksite inspection, the compliance officer issues a notice of violation. The compliance officer forwards a violation response form and any other relevant information to the compliance officer supervisors.</p>
<b>Resolution without formal Hearing</b>	<p>According to the executive director, when a notice of violation (NOV) is issued, the person receiving the NOV is given the opportunity to comply with the law or board rule immediately. For example, if a person acting as an apprentice does not have an apprentice certification, the compliance officers furnish the person with an application for certification as an apprentice and an envelope. The compliance officer will take the person to the post office to mail the application and fee (check or money order). If the person has an expired certificate he or she is instructed to have the certificate renewed. In all cases, the person who receives the NOV must cease plumber/gas fitter work until the violation is corrected. The compliance officers will contact the board's office in the case of an expired license and request the office to contact the compliance officers when the certificate holder has renewed. According to the executive director, compliance officers who have written NOV's at a job site will re-visit the job site the next day to ensure that persons who were issued an NOV have either complied or have not returned to work. If the compliance officer observes the violator doing plumbing/gas fitting work before the violation is corrected, the officer seeks approval from the executive director to pursue a warrant for the violator's arrest. This process does not involve a hearing.</p> <p>If a complaint is about a matter determined to be outside the board's jurisdiction, compliance supervisors will, if the situation lends itself to compromise, attempt to mediate a resolution between the plumber/gas fitter and complainant.</p>



<b>Formal Hearing</b>	<p>The board may revoke or suspend any certificate if obtained through concealment, misstatement, or misrepresentation of any material fact in the application, or for a willful violation of any law or ordinance pertaining to the business of the holder.</p> <p>Before a certificate may be revoked, the holder must have been provided notice in writing enumerating the charges against him or her and be entitled to a hearing by the board no sooner than five days from receipt of notice.</p> <p>All testimony given must be under oath.</p> <p>The board utilizes a hearing officer. The board's position is presented by the board's attorney. A stenographer records the hearings with a copy of the transcripts going to the attorney, and board. A majority of the board must concur for a decision to be made.</p> <p>A certificate holder whose certificate has been revoked by the board, may, within 5 days after such revocation, appeal the board's decision or revocation to the circuit court of the county in which the certificate holder resides, does business or is employed.</p> <p><i>Code of Alabama 1975, Section 34-37-12</i></p> <p>NOTE: THE BOARD HAS NO RECENT HISTORY OF HOLDING HEARINGS AND RELIES ON THE PROCEDURES PRESENTED IN THE PRECEDING BLOCK ENTITLED "RESOLUTION WITHOUT FORMAL HEARINGS"</p>
<b>Notification of Resolution to the Complainant</b>	<p>When a complaint has been processed to completion, the compliance officer supervisors notify the complainant of the outcome.</p>

Information obtained from the Executive Director

		Schedule of Complaints Resolved 2007 through 2010 FY(and current year)				
Year	Number Received	Year / Number Resolved				
		2008	2009	2010	2011	Pending
2008	51	50	1	0	0	0
2009	50		45	5	0	0
2010	41			38	3	0
2011	26 <sup>(1)</sup>				26	0
(1) As of July 5, 2011						
Information obtained from executive director						

**Average time to resolve Complaints:**

FY08 – 31 days  
FY09 – 30.62 days  
FY10 – 21.59 days  
FY11 – 16.46 days

## **REGULATION IN CONJUNCTION WITH OTHER ENTITIES**

There is no specific regulation of the board's certificate holders by any other agency; however, any certified plumber or gas fitter who performs work as a general contractor or subcontractor, as defined in the *Code of Alabama 1975*, Sections 34-8-1 through 34-8-28, must obtain a general contractor's or subcontractor's license from the Board of Licensure for General Contractors.

## **SMART GOVERNING**

### **2010 SMART Quarterly Performance Report**

GOALS			COMMENTS	
Increase the number of contacts by 10% over the 2007 number of 263 by 2011. This will ensure that licensees are in compliance.			Goal appears appropriate.	
OBJECTIVES	UNIT OF MEASURE	TARGET	REPORTED PERFORMANCE	COMMENTS
(O1-Quality) Number of contacts.	%	284	-1,270	The unit of measure is not consistent with the objective statement and the target. The objective statement and the target are stated as the number of contacts but the unit of measure is %.  <b>Number reported could not be recreated from records.</b>

(O2-Quality) Decrease the number of violations written each year by 7% of the prior year number.	#	16.94	63	The objective statement is not consistent with the unit of measure. The objective statement asks for a percentage reduction. By definition, the unit of measure should be “%” rather than #  <b>Number reported can be recreated – however the wrong data was used.</b>
(O3-Efficiency) Maintain cost per investigator. Total budget divided by the total number of sites visited.	#	196.93	326.57	The objective statement is not consistent with the unit of measure. The objective statement asks for a number. By definition the unit of measure should be “\$” rather than “#”. Number reported can be recreated.

### 2011 Quarterly Performance Report

GOALS			COMMENTS	
Increase the number of contacts by 10% over the 2007 number of 263 by 2011. This will ensure that licensees are in compliance.			Goal appears appropriate.	
OBJECTIVES	UNIT OF MEASURE	PERFORMANCE TARGET	REPORTED PERFORMANCE	COMMENTS
(O1-Quality) Number of contacts.	%	289	N/A Reporting year not ended	The unit of measure is not consistent with the objective statement and the target. The objective statement and the target are stated as the number of contracts but the unit of measure is %.
(O2-Quality) Decrease the number of violations written each year by 7% of the prior year number.	#	15.5	N/A Reporting year not ended	The objective statement is not consistent with the unit of measure. The objective statement asks for a percentage reduction. By definition, the unit of measure should be “%” rather than #
(O3-Efficiency) Maintain cost per investigator. Total budget divided by the total number of sites visited.	#	192.94	N/A Reporting year not ended	The objective statement is not consistent with the unit of measure. The objective statement asks for a number. By definition the unit of measure should be “\$” rather than “#”.

## **FINANCIAL INFORMATION**

### **Source of Funds** – Licensing Fees

#### **Fund/Account Descriptions**

The board operates from the State Treasury through Special Revenue Fund 0358. (*Code of Alabama 1975*, Section 34-37-5(a)).

Any funds unspent and unencumbered at the end of each fiscal year that exceed 25 percent of the board's budget for the previous fiscal year must be transferred to the state's General Fund (*Code of Alabama 1975*, Section 34-37-5(a)).

#### **Schedule of Fees**

<b>Fee Type</b>	<b><i>Code of Alabama 1975</i></b>	<b>Amount Authorized</b>	<b>Rule</b>	<b>Amount Collected</b>
Apprentice Registration Fee	34-37-9	Set by the board	720-X-4-.01	\$25
Apprentice Renewal Fee	34-37-9	St by the board	720-X-4-.01	\$10
Journeyman Plumber Examination Fee	34-37-9	Set by the board	720-X-4-.01	\$110
Journeyman Plumber Renewal Fee	34-37-9	Set by the board	720-X-4-.01	\$30
Journeyman Gas Fitter Examination Fee	34-37-9	Set by the board	720-X-4-.01	\$110
Journeyman Gas Fitter Renewal Fee	34-37-9	Set by the board	720-X-4-.01	\$30
Temporary - Revocable Journeyman Plumber or Gas Fitter Fee <sup>1</sup>	34-37-10	One half of annual certificate fee	720-X-4-.01	\$15
Master Plumber Exam Fee	34-37-9	Set by the board	720-X-4-.01	\$160
Master Plumber Renewal Fee	34-37-9	Set by the board	720-X-4-.01	\$125
Master Gas Fitter Exam Fee	34-37-9	Set by the board	720-X-4-.01	\$160
Master Gas Fitter Renewal Fee	34-37-9	Set by the board	720-X-4-.01	\$125
Medical Gas Fee	34-37-9	Set by the board	720-X-4-.01	\$10
Replacement Card	34-37-9	Set by the board	720-X-4-.01	\$5
Late Renewal Fee	34-37-9	Set by the board	720-X-9-.01	Equal to the renewal rate for the respective certificate
Bad Check Charge	8-8-15	Maximum of \$30	Not set in rules	\$30

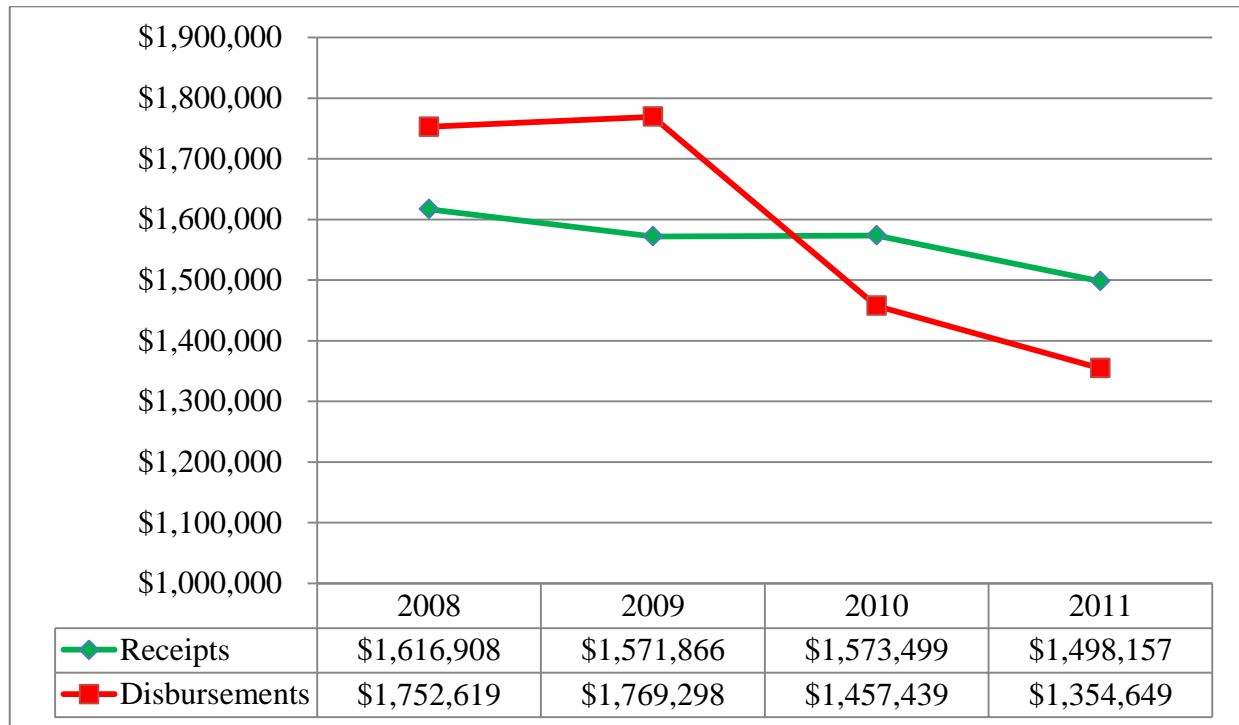
<sup>1</sup>One Time Fee

## **Schedule of Receipts, Disbursements, and Balances**

October 1, 2007 – September 30, 2011

	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>
<b><u>Receipts</u></b>				
License and Permit Fees	\$1,306,445.38	\$ 1,356,312.62	\$ 1,342,834.00	\$ 1,364,093.00
Examination Fees	111,620.00	135,905.00	148,945.00	170,050.00
Miscellaneous Fees Not Otherwise Classified	266.70	136.76	490.06	69.50
Professional/Occupational Penalties	79,075.00	77,115.00	78,450.00	80,885.00
Bad Check Fees	750.00	2,070.00	1,147.00	1,810.00
Copies	-	-	-	-
Salvaged Equipment	-	1,960.00	-	-
Total Receipts	1,498,157.08	1,573,499.38	1,571,866.06	1,616,907.50
<b><u>Disbursements</u></b>				
Personnel Costs	727,954.36	779,645.62	936,834.13	897,611.62
Employee Benefits	302,613.43	297,395.56	331,388.68	323,429.75
Travel In-State	17,695.95	59,931.50	97,587.15	99,280.26
Travel Out-of-State	1,326.53	6,650.84	160.02	6,230.54
Repairs and Maintenance	216.89	374.53	442.41	31,280.64
Rentals and Leases	47,344.40	56,034.83	51,149.80	52,326.95
Utilities and Communications	54,372.03	56,972.43	56,771.59	67,491.97
Professional Services	80,753.04	91,086.64	107,866.40	128,760.72
Supplies, Materials and Operating Expense	44,714.41	47,627.41	89,230.49	76,810.36
Transportation Equipment Operations	66,006.86	61,719.67	60,959.11	63,097.81
Grants, Awards, and Benefits	-	-	-	14.00
Equipment Purchases	11,651.00	-	36,908.00	6,284.50
Total Disbursements	1,354,648.90	1,457,439.03	1,769,297.78	1,752,619.12
Excess (Deficiency) of Receipts over Disbursements	143,508.18	116,060.35	(197,431.72)	(135,711.62)
Cash Balance at Beginning of Year	371,053.13	254,992.78	452,424.50	588,136.12
Cash Balance at End of Year	514,561.31	371,053.13	254,992.78	452,424.50
Reserved For Year End Obligations	(55,814.40)	(90,973.42)	(76,944.67)	(141,703.33)
Unobligated Cash Balance at Year End	\$ 458,746.91	\$ 280,079.71	\$ 178,048.11	\$ 310,721.17

**Operating Receipts vs. Operating Disbursements (Chart)**



## APPENDICES

### SMART Performance Reports

<b>Agency:</b>	<b>309 - Plumbers and Gas Fitters Examining Board, Alabama</b>	<b>Program:</b>	<b>653 - PRO AND OCCU LICENSING AND REG</b>
<b>Organization:</b>	<b>-</b>	<b>Activity:</b>	<b>-</b>
<b>Mission:</b>	To serve the people of Alabama by fair regulation of the plumbing and gas fitting industries, and provide consumer protection (Alabama Code Sec. 34-31-1).		

Workload Measures and Quarterly Projections										
	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload Measure	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
W1: The number of contacts made.	3400	1379	2745	1784	2743	1924	2743	1916	11631	7003
W2: The number of violations written.	58	35	55	83	56	32	56	23	225	173
W3: The number of active certified plumbers and gas fitters in Alabama.	9900	10949	4000	2891	1375	897	1375	615	16650	15352

<b>Agency:</b>	<b>309 - Plumbers and Gas Fitters Examining Board, Alab</b>	<b>Program:</b>	<b>653 - PRO AND OCCU LICENSING AND REG</b>
<b>Organization:</b>	<b>-</b>	<b>Activity:</b>	<b>-</b>

Key Goal:											
Goal 1	Increase the number of contacts by 10% over the 2007 number of 263 by 2011. This will ensure that licensees are in compliance.								Governor's Priority:		5
Objectives and Quarterly Targets:											
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Objectives	Unit of Measure	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
(O1-Quality) Number of contacts.	%	--	n/a	--	n/a	--	n/a	--	N/A	284	-1270
(O2-Quality) Decrease the number of violations written each year by 7% of the prior year number.	#	--	n/a	--	n/a	--	n/a	--	N/A	16.94	63
(O3-Efficiency) Maintain cost per investigator. Total budget divided by the total number of sites visited.	#	--	n/a	--	n/a	--	n/a	--	N/A	196.93	326.57

<b>Agency:</b>	<b>309 - Plumbers and Gas Fitters Examining Board, Alabama</b>	<b>Program:</b>	<b>653 - PRO AND OCCU LICENSING AND REG</b>
<b>Organization:</b>	<b>-</b>	<b>Activity:</b>	<b>-</b>
<b>Mission:</b>	To serve the people of Alabama by fair regulation of the plumbing and gas fitting industries, and provide consumer protection (Alabama Code Sec. 34-31-1).		

Workload Measures and Quarterly Projections										
	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload Measure	Projected	Actual	Projected	Actual	Projected	Actual*	Projected	Actual*	Projected	Actual*
W1: The number of contacts made.	3500	1138	2825	1420	2798		2797		11920	
W2: The number of violations written.	57	25	53	43	50		49		209	
W3: The number of active certified plumbers and gas fitters in Alabama.	9975	10894	4100	2618	1312		1313		16700	
* Actual workload data is not currently available for this quarter.										

<b>Agency:</b>	<b>309 - Plumbers and Gas Fitters Examining Board, Alab</b>	<b>Program:</b>	<b>653 - PRO AND OCCU LICENSING AND REG</b>
<b>Organization:</b>	<b>-</b>	<b>Activity:</b>	<b>-</b>

Key Goal:											
Goal 1	Increase the number of contacts by 10% over the 2007 number of 263 by 2011. This will ensure that licensees are in compliance.								Governor's Priority:		5
Objectives and Quarterly Targets:											
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Objectives	Unit of Measure	Target	Actual	Target	Actual	Target	Actual*	Target	Actual*	Target	Actual*
(O1-Quality) Number of contacts.	%	--	--	--	--	--	--	--	--	289	
(O2-Quality) Decrease the number of violations written each year by 7% of the prior year number.	#	--	--	--	--	--	--	--	--	15.5	
(O3-Efficiency) Maintain cost per investigator. Total budget divided by the total number of sites visited.	#	--	--	--	--	--	--	--	--	192.94	
* Actual performance data is not currently available for this quarter.											



## **Applicable Statutes**

### **CHAPTER 37. PLUMBERS AND GAS FITTERS.**

*Current through End of 2010 First Special Session.*

#### **§ 34-37-1. Definitions.**

For purposes of this chapter, the following terms shall have meanings respectively ascribed to them herein unless the context clearly requires a different meaning:

- (1) Apprentice gas fitter or plumber. A person other than a master or journeyman gas fitter or plumber, who is engaged in learning and assisting in the installation of gas pipe, equipment, apparatus, and appliances, and shall work directly under the supervision of a journeyman or master gas fitter or plumber, and who has successfully fulfilled the registration requirements of the board and has been duly registered by the board as such for the current year.
- (2) Board. The Alabama Plumbers and Gas Fitters Examining Board as renamed by this chapter. The board shall examine, certify, and regulate plumbers, gas fitters, and medical gas piping fitters on a statewide basis pursuant to this chapter.
- (3) Certification. The process of testing at the state level to determine the knowledge and skill of an individual with respect to plumbing and gas fitting, and the issuing of certificates to indicate that an individual has passed the examination.
- (4) Gas fitting, gas systems, or gas work. The installation, repair of pipes, fixtures, fittings, appliances, or apparatus necessary for supplying natural gas for residential or commercial use from the point of delivery and all gas piping before connection to the combustion zone and including the applicable venting of flue gases to the outside atmosphere and the provisions for air for combustion and ventilation. This chapter shall not be construed to prevent any contractor certified by the Alabama Board of Heating and Air Conditioning Contractors from installing, replacing, or performing service or repair on natural gas fired air heating/cooling appliances, excluding piping to them provided the installing contractor has a valid certificate issued by the Alabama Board of Heating and Air Conditioning Contractors.
- (5) Journeyman gas fitter. A person who engages in or works at the actual installation, repair, or replacement of gas work, who has successfully fulfilled the examination requirements of the board, has been issued a journeyman gas fitter certificate by the board, and possesses a valid and current annual certificate issued by the board. The certificate shall be available for inspection on request.
- (6) Journeyman plumber. A person who engages in or works at the actual installation, repair, or replacement of plumbing systems, who has successfully fulfilled the examination requirements of the board, has been issued a journeyman plumber certificate by the board, and possesses a valid and current annual certificate issued by the board. The certificate shall be available for inspection on request.
- (7) Master gas fitter. Any person engaged in or proposing to engage in the business of contracting to do, or of superintending the installation, maintenance, or repair of gas systems or gas work, either or both. The individual shall qualify to be a certified master gas fitter. If the business be a firm or corporation, at least one active employee of the firm or corporation shall be a duly registered and certified master gas fitter, actively and continuously connected with the conduct of the business. The master gas fitter shall have in his or her possession a current annual certificate issued by the board. The certificate shall be available for inspection on request.
- (8) Master plumber. Any person engaged in or proposing to engage in the business of contracting to do, or of superintending the installation, maintenance, or repair of plumbing, or both. The individual

shall qualify to be a certified master plumber. If the business is a firm or corporation, at least one active employee of the firm or corporation shall be a duly registered and certified master plumber, actively, continuously connected with the conduct of the business. The master plumber shall have in his or her possession a current annual certificate issued by the board. The certificate shall be available for inspection on request.

(9) Medical gas piping fitter. A master plumber or master gas fitter whose certificate bears an endorsement for installation of medical gas piping. A journeyman plumber or journeyman gas fitter whose certificate bears an endorsement for installation of medical gas piping shall be entitled to install medical gas piping under the direction of a master plumber or master gas fitter whose certificate entitles him or her to install medical gas piping. The medical gas piping fitter shall have in his or her possession a current annual certificate with endorsement issued by the board. The certificate shall be available for inspection on request.

(10) Medical gas piping. Piping used solely to transport gases used for medical purposes.

(11) Plumbing, plumbing systems, or plumbing work. The installation, repair, or replacement of pipes, fixtures, or other apparatus necessary either for supplying water or for removing liquid or waterborne waste. The term is also used to denote installed fixtures, drainage, vents, and water distribution systems.

#### CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 1; Acts 1989, No. 89-406, p. 858, § 3; Acts 1996, No. 96-795, p. 1496, § 1.)

### **§ 34-37-2. Board renamed; authority expanded.**

The Plumbers Examining Board as created by Act No. 529 of the 1949 Regular Session of the Legislature (Acts 1949, p. 827), as amended, is renamed the Plumbers and Gas Fitters Examining Board and the authority of the board is expanded to allow the board to examine, certify, and regulate plumbers, gas fitters, and medical gas piping fitters on a statewide basis. The board may make and enforce rules adopted in accordance with Chapter 22 of Title 41, the Alabama Administrative Procedure Act.

#### CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 2; Acts 1989, No. 89-406, p. 858, § 3; Acts 1996, No. 96-795, p. 1496, § 1.)

### **§ 34-37-3. Appointments to board; composition.**

The board members established by this chapter shall continue to serve on the board as renamed by this chapter until the expiration of their current terms. Appointments shall be subject to confirmation by the Senate. Commencing on March 4, 2010, members shall serve until the expiration of their respective terms of office and shall vacate office on that date. The Governor shall designate the length of term for each of his or her appointees not to exceed four years. The board shall always be composed of the following members: One member appointed by the Governor shall be a master plumber as defined by this chapter; one member appointed by the Governor shall be a journeyman plumber as defined by this chapter; one member appointed by the Governor shall be a registered professional engineer licensed as such by the State Board of Registration of Professional Engineers and Land Surveyors as provided in Article 2 of Chapter 11 of this title, or any subsequent act relating to the licensing of professional engineers; one member appointed by the Governor shall be a municipal or county building official; one member appointed by the Governor shall be a master gas fitter as defined in this chapter; one member appointed by the Governor shall be a journeyman gas

fitter as defined in this chapter; and one member appointed by the Governor shall be appointed from the public at large. The member representing the public at large shall not be engaged or otherwise connected to the plumbing or gas industry or the installation of plumbing or gas work nor connected with any person, firm, or corporation handling or dealing in material, fixtures, or appliances connected with plumbing or gas work. Each member of the board shall be a citizen of this state and the membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

**CREDIT(S)**

(Acts 1987, No. 87-812, p. 1616, § 3; Acts 1989, No. 89-406, p. 858, § 3; Acts 1996, No. 96-797, p. 1502, § 3; Act 2000-230, p. 365, § 3; Act 2008-148, p. 240, § 3; Act 2010-147, p. 213, § 3.)

**§ 34-37-4. Meetings, compensation, and expenses of board.**

(a) The board shall meet when necessary for the proper performance of its duties, but in no case less than once a year. Meetings shall be held at places in the state as the board deems necessary. At its first meeting next following May 2, 1989, and every two years thereafter, the board shall organize itself by electing from its membership a chair, vice-chair, and a recording secretary. The board shall appoint, employ, or contract with an executive director for the board, and may appoint, employ, or contract with a deputy director, neither of whom shall be subject to the state Merit System. The executive director shall serve as treasurer of the board, but the deputy director may serve as treasurer of the board in the absence of the executive director or when otherwise directed by the board. In addition to any other duties, the deputy director may serve as a hearing officer for the board in any license proceeding pursuant to Section 34-37-12. The executive director and the deputy director shall not be a member of the board and shall not be engaged or otherwise connected with the plumbing or gas fitting industry. The board shall set the compensation of the executive director and the deputy director in accordance with regulations of the State Personnel Board. Four members of the board shall constitute a quorum for transacting business. Each member of the board shall receive as compensation for services the sum of two hundred dollars (\$200) per day for each day spent in active service for the board. In addition to per diem compensation, each board member shall be reimbursed for any necessary expense incurred in performing duties as a board member. The expenses allowable to each board member shall not exceed the per diem amount of state travel expenses allowed by law, from time to time, for state employees traveling on state business. Employees of the board shall also be entitled to reimbursement for traveling expenses incurred when traveling on official board business at the rate for state employees traveling on state business. The board may employ or contract for stenographic or clerical help and compliance officers when needed, and may purchase necessary office supplies, equipment, and services.

(b) The compensation and expense provided for in this section, and all other authorized expenses, shall be payable solely from fees collected by or on behalf of the board. In no event shall any expense incurred by the board be charged against any funds of the State of Alabama other than the funds collected under this chapter.

**CREDIT(S)**

(Acts 1987, No. 87-812, p. 1616, § 4; Acts 1989, No. 89-406, p. 858, § 3; Acts 1995, No. 95-212, p. 347, § 1; Acts 1997, No. 97-718, p. 1488, § 1.)

**§ 34-37-5. Deposit and disbursement of funds; bond of the executive director and deputy director.**

(a) There is established a separate special revenue trust fund in the State Treasury to be known as the Alabama Plumbers and Gas Fitters Examining Board Fund. All receipts collected by the board under this chapter shall be deposited in this fund and used only to carry out this chapter. The fund shall be disbursed only by warrant of the state Comptroller upon the State Treasury upon itemized vouchers approved by the executive director of the board or, in the absence of the executive director, by the deputy director. No funds shall be withdrawn or expended except as budgeted and allotted according to Sections 41-4-80 to 41-4-96, inclusive, as amended, and only in amounts as stipulated in the general appropriation bill or other appropriation bills. Any funds unspent and unencumbered at the end of each fiscal year that exceed 25 percent of the board's budget for the previous fiscal year shall be transferred to the State General Fund.

(b) The executive director and the deputy director of the board shall, before entering upon the duties of their office, make and file with the Secretary of State an official bond in the sum of five thousand dollars (\$5,000), unless covered by the state blanket bond. The appropriate premiums on the bond shall be paid out of the funds of the board, and the bond shall be executed by an approved bonding fidelity or guaranty company qualified to do business in Alabama and acceptable to the Secretary of State.

**CREDIT(S)**

(Acts 1987, No. 87-812, p. 1616, § 5; Acts 1989, No. 89-406, p. 858, § 3; Acts 1995, No. 95-212, p. 347, § 1; Acts 1996, No. 96-712, p. 1186, § 1; Acts 1996, No. 96-797, p. 1503, § 3.)

**§ 34-37-6. Certification, registration, and examination.**

(a) It shall be unlawful for any person, firm, or corporation to purchase a business license or to do or perform, or to contract, direct, or superintend any plumbing, gas fitting, or medical gas piping within any incorporated city or town or county of this state unless the person has first received a certificate of competency, hereinafter referred to as "certificate," that is in force and effect at the time the plumbing, gas fitting, or medical gas piping is done, directed, or superintended, except as hereinafter provided.

(b) The board shall register every person who may apply for an apprentice plumber or gas fitter registration certificate upon forms provided by the board, upon first paying all prescribed fees.

(c) The board shall examine and pass upon the qualification of every person who applies for a journeyman's plumber or gas fitter certificate upon forms provided by the board. An applicant for examination for a journeyman's plumber or gas fitter certificate shall submit proof that the applicant has two years of work experience as an apprentice plumber or gas fitter or has completed an apprentice training program approved by the board. Applicants for journeyman plumber or gas fitter shall be examined, orally or in writing, upon the fundamentals of plumbing or gas fitting, the theory and practice of plumbing installation and construction or gas fitting work, and the experience and ability of the applicant in practical plumbing installation and construction or gas fitting work. If the applicant is found to possess an accurate knowledge of the theory and correct practice of plumbing installation and construction or gas fitting work, and sufficient experience and ability in plumbing installation and construction or gas fitting work to safely and competently apply that knowledge and practice, the board shall issue a certificate, upon the applicant first paying all prescribed fees. The examination shall be administered by an independent examining agency.

(d) The board shall examine and pass upon the qualifications of every person who applies for a master's plumber or gas fitter certificate upon forms provided by the board.

- (1) Applicants for examination for a master plumber certificate shall submit proof to the board that the applicant has at least one year of work experience as a journeyman plumber.
- (2) Applicants for examination for a master gas fitter's certificate shall submit proof to the board that the applicant has at least one year of work experience as a journeyman gas fitter.
- (3) An applicant for a master's certificate shall be examined upon knowledge, training, and ability, in the planning, laying out, and supervision of plumbing installation and construction work or gas fitting work, and if found to possess those qualifications, the applicant shall be issued a master's plumber or gas fitter certificate by the board.
- (e) No person shall be issued a certificate without passing the prescribed examination. A person who has passed the examination shall not be required to take the examination thereafter in order to secure a certificate in subsequent years. At least four examinations per year shall be conducted, at a time and place prescribed by the board after reasonable notice.
- (f) Any master plumber, master gas fitter, journeyman plumber, or journeyman gas fitter performing medical gas piping shall provide proof to the board that he or she has successfully completed a current medical gas piping certification program approved by the board. The approval by the board shall be indicated by endorsement as a medical gas piping fitter on his or her certificate. Any journeyman performing medical gas piping shall work under the direction of a master plumber or master gas fitter whose certificate entitles him or her to install medical gas piping.
- (g) An applicant for any type of certification shall be a United States citizen or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.

**CREDIT(S)**

(Acts 1987, No. 87-812, p. 1616, § 6; Acts 1988, No. 88-132, p. 190, § 3; Acts 1989, No. 89-406, p. 858, § 3; Acts 1992, No. 92-182, p. 340, § 3; Acts 1995, No. 95-212, p. 347, § 1; Acts 1996, No. 96-795, p. 1496, § 1; Acts 1997, No. 97-718, p. 1488, § 1; Act 2008-148, p. 240, § 3.)

**§ 34-37-7. Reexamination.**

*Current through End of 2010 First Special Session.*

**References**

Any person who fails to pass an examination may, upon reapplication and payment of the regular examination fee, be reexamined at any subsequent examination given by the board.

**CREDIT(S)**

(Acts 1987, No. 87-812, p. 1616, § 7; Acts 1989, No. 89-406, p. 858, § 3.)

**§ 34-37-8. Renewals; acceptance and inspection of certificate.**

- (a) Any person who holds a certificate issued by the board shall be issued statewide certification upon the renewal of their existing certificate.
- (b) Any certificate issued by the board shall be acceptable by any city, town, or county in the state and any existing local statute or ordinance contrary to this section is repealed, and no other competency certification or examination shall be required of plumbers, gas fitters, or medical gas piping fitters by any local governmental entity.
- (c) Any current registration or annual certificate issued to any person by the board shall be in possession of the person at any time he or she engages in or proposes to engage as a master, journeyman, or apprentice plumber, gas fitter, or medical gas piping fitter, as the case may be, and upon request he or she shall make the certificate or registration available for inspection and identification by any person or persons for whom he or she engages or proposes to engage as such,

and for identification by plumbing, gas, or other authorized enforcement personnel of any governmental entity, board, or agency when requested.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 8; Acts 1989, No. 89-406, p. 858, § 3; Acts 1992, No. 92-182, p. 340, § 3; Acts 1996, No. 96-795, p. 1496, § 1.)

#### **§ 34-37-9. Fees; reissuance fees; exceptions.**

The board shall set the necessary fees to administer the requirements of this chapter and when adopted, such fee schedule shall be in lieu of any fee schedule heretofore prescribed by the board. The board shall not change the fee schedule to be effective in the middle of a calendar year. The certificates provided for herein shall be issued by the board upon the payment of the prescribed fees. All annual certificates shall expire on December 31 of the year in which they are issued. The certificate fees herein prescribed shall be in addition to all privilege or license taxes otherwise levied. Certificates renewed after December 31 shall include the late renewal penalty established by the board.

All applicants requesting replacement of lost or stolen certificates shall be required to pay a \$5 reissuance fee based on the regular fee schedule.

All persons serving in the armed forces will not be required to pay any back years for a renewal certificate during the calendar year he or she is released from active military duty. All other persons shall pay back years unless proof satisfactory to the board is furnished indicating that the individual was not employed in such years in the plumbing or gas fitting trade.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 9; Acts 1989, No. 89-406, p. 858, § 3; Acts 1992, No. 92-182, p. 340, § 3.)

#### **§ 34-37-10. Temporary certificate.**

The board may issue a temporary revocable certificate for journeyman classification one time only to any person pending such person's examination for a certificate, if such person furnishes satisfactory proof that he or she holds a license or certificate to practice as a journeyman plumber or gas fitter in any state wherein plumbers and gas fitters are required to meet prescribed standards before engaging in the trade of journeyman plumber or gas fitter. Any such temporary certificate during the effective period thereof shall have the force and effect of an annual certificate; but no such temporary certificate shall be effective for a period of more than 90 days from the issuance thereof, or until the next examination, whichever is longer. Prior to receiving any such temporary certificate, the applicant therefor shall be required to pay to the board one half of the annual certificate fee provided for journeyman plumber or gas fitter, as the case may be. Additional test dates for master plumber and master gas fitter examinations may be given at the discretion of the board.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 10; Acts 1989, No. 89-406, p. 858, § 3.)

#### **§ 34-37-11. Reciprocal agreements.**

The board may establish reciprocal agreements with any other state licensing or certifying board which recognizes, as a minimum, the standards prescribed by the board, and may allow certified plumbers and gas fitters to receive a license in this state without taking examinations if such plumber or gas fitter is licensed in the reciprocating state.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 11.)

**§ 34-37-12. Revocation of certificates.**

The board may revoke or suspend any certificate if obtained through concealment, misstatement, or misrepresentation of any material fact in the application for such certificate, or for a willful violation of any law or ordinance pertaining to the business of the holder of such certificates. Before a certificate may be revoked, the holder thereof shall have notice in writing, enumerating the charges against him or her, and be entitled to a hearing by the board not sooner than five days from receipt of notice. The holder of such certificate shall be given an opportunity to present testimony, oral or written, and right of cross-examination and representation by counsel. All testimony shall be given under oath. The board shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses.

The decision of the board shall be based on the evidence produced at the hearing and made a part of the record thereof. The person whose certificate has been revoked shall not be permitted to apply for a license for one year from the date of revocation.

Hearings shall be conducted by a hearing officer appointed by the board. The hearing officer may be a board member, the executive director, or such other person as the board may deem fit and proper to hold such hearing. The testimony adduced at the hearing, along with all other proceedings, shall be taken down by a competent stenographer and shall be preserved as a record of the board and shall be open to the public inspection at all reasonable times. A copy of the record so adduced shall be furnished to each member of the board, and no license shall be revoked unless a majority of the board members concur with the revocation of same.

No annual certificate shall be issued to any certificate holder whose certificate shall have been revoked by the board after such hearing until one year from and after the date of such revocation unless the certificate holder whose certificate shall have been so revoked shall enter into a bond with good and sufficient surety in the penal sum of \$1,000 to faithfully comply with the provisions of this chapter and of all rules and regulations and codes adopted by the board, provided, however, that such certificate holder whose certificate shall be so revoked may within five days after such revocation appeal from the board's decision or revocation to the circuit court of the county in which the certificate holder resides, does business, or is employed.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 12; Acts 1989, No. 89-406, p. 858, § 3; Acts 1992, No. 92-182, p. 340, § 3.)

**§ 34-37-13. Master plumber's and gas fitter's bond.**

In order to protect the public from damages arising from plumbing and gas fitting or plumbing work and gas fitting work failing to comply with the requirements of any state laws applicable thereto, or with the ordinances of any municipal corporation applicable thereto, it is hereby provided that before any person engages in the business of master plumber or master gas fitter, he or she shall execute and deposit with the judge of probate in the county of his or her principal place of business a bond in the sum of \$2,000. Such bond shall be a cash bond of \$2,000 or executed by a surety authorized and qualified to write surety bonds in the State of Alabama, and shall be approved by the probate judge. Such bond shall be conditioned upon all plumbing and gas fitting work done or supervised by such master plumber or master gas fitter complying with the provisions of any laws or ordinances relating

to plumbing and gas fitting and applicable thereto. Action on such bond may be brought against the principal and surety thereon in the name of, and for the benefit of, any person who suffers damages as a consequence of the master plumber's or master gas fitter's work not conforming to the requirements of any laws or ordinances pertaining to plumbing and gas fitting and applicable thereto, provided, however, that the aggregate liability of the surety to all persons so damaged shall, in no event, exceed the sum of the bond.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 13.)

**§ 34-37-14. Wrongful use of certificate; notification of address; inactive status affidavit.**

(a) No person who has obtained a certificate shall allow his or her name to be used by another person, either for the purpose of obtaining permits, or doing business or work under his or her certificate; and every person certified shall notify the board of the address of his or her place of business and the name under which such business is carried on, and shall give immediate notice to the board of any change in either.

(b) Before any person certified by the board engages in the business of master plumber and/or master gas fitter, he or she shall notify the board of the address of the place of business he or she engages in as such and the name under which such business is carried on and shall give immediate notice of any change in either. All information required by this section shall be furnished on a business certification form furnished by the board.

(c) Any certified master plumber or master gas fitter who desires to renew his or her annual certificate but does not intend to engage as a master shall complete an inactive status affidavit obtained from the board.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 14; Acts 1989, No. 89-406, p. 858, § 3.)

**§ 34-37-15. Acts, works, and conduct permitted, without license; chapter not applicable to specific natural gas utility companies.**

(a) The following acts, work, and conduct may be performed by anyone, without license or certificate, provided, however, that all work and services herein named or referred to shall be subject to an inspection and approval in accordance with the terms of all state laws and applicable municipal ordinances:

(1) Plumbing work done by a property owner in or about a building owned or occupied by him or her.

(2) Plumbing or gas fitting work done by anyone who is regularly employed or acting as a maintenance man acting under the supervision of a maintenance engineer or maintenance engineer incidental to and in connection with the business in which he or she is employed and engaged, provided the plumbing or gas fitting work is done on the premises of the employer, and who does not engage in the occupation of a plumber or gas fitter for the general public.

(3) Maintenance and reinstallation work done upon the premises or equipment of a railroad, other businesses or industry, by an employee thereof who does not engage in the occupation of a plumber or gas fitter for the general public.

(4) Plumbing or gas fitting work done by persons engaged by any public utility company in the laying, maintenance, and operation of its service mains or lines and the installation, alteration, adjustment, repair, removal, and renovation of all types of appurtenances, equipment, and appliances, provided such plumbing work does not necessitate tying into waste or sewer lines on the outlet side of a trap or alter gas piping on consumer side of meter.



- (5) Appliances or fixture installations and service work done in connecting appliances or fixtures to existing piping installations.
- (6) Any person may install washing machines to existing piping installation or waste lines, provided such plumbing work does not necessitate tying into waste or sewer lines on the outlet side of the trap.
- (b) The provisions of this chapter shall not apply to any natural gas utility company having fewer than 350 employees that is regulated by the Alabama Public Service Commission.
- (Acts 1987, No. 87-812, p. 1616, § 15; Acts 1988, 1st Ex. Sess., No. 88-918, p. 512, § 1(7); Acts 1989, No. 89-406, p. 858, § 3; Acts 1992, No. 92-182, p. 340, § 3.)

**§ 34-37-16. Restrictions.**

- (a) No person shall use nor allow their certificate to enable anyone other than the certificate holder and his or her employees directly supervised by the certificate holder to perform plumbing or gas fitting. Local officials may require the certificate holder to be present if any problems develop on the work.
- (b) No certificate issued by the board can be sold or transferred. Any certificate which is misused may be revoked by the board.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 16; Acts 1989, No. 89-406, p. 858, § 3.)

**§ 34-37-17. Violation; penalty.**

It shall be unlawful for any person to violate any provision of this chapter regulating plumbers, gas fitters, or medical gas piping fitters. Any person convicted of such violation shall be punished as prescribed for a Class B misdemeanor.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 17; Acts 1989, No. 89-406, p. 858, § 3; Acts 1996, No. 96-795, p. 1496, § 1.)

**§ 34-37-18. Repealer.**

All laws or parts of laws which conflict with this act are hereby repealed and Act No. 529, H. 977, 1949 Regular Session (Acts 1949, p. 827), is hereby specifically repealed.

CREDIT(S)

(Acts 1987, No. 87-812, p. 1616, § 18; Acts 1989, No. 89-406, p. 858, § 3.)

Act 2011 – 152

ACT No. 2011 - 152

HB37

2 127824-3  
3 By Representative Sanderford  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 01-MAR-11  
6 PFD: 02/25/2011



1  
2 ENROLLED, An Act,

3           Relating to the Alabama Sunset Law; to continue the  
4 existence and functioning of the Plumbers and Gas Fitters  
5 Examining Board until October 1, 2012, with certain  
6 modifications; to amend Section 34-37-15, Code of Alabama  
7 1975, so as to exempt plumbing work performed by a property  
8 owner, or a maintenance person employed by the property owner,  
9 on his or her own property from the requirement of  
10 certification by the board.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12           Section 1. Pursuant to the Alabama Sunset Law, the  
13 Sunset Committee recommends the continuance of the Plumbers  
14 and Gas Fitters Examining Board until October 1, 2012, with  
15 the additional recommendations for statutory change as set out  
16 in Section 3.

17           Section 2. The existence and functioning of the  
18 Plumbers and Gas Fitters Examining Board, created and  
19 functioning pursuant to Sections 34-37-1 to 34-37-18,  
20 inclusive, Code of Alabama 1975, is continued until October 1,  
21 2012, and those code sections are expressly preserved.

22           Section 3. Section 34-37-15 of the Code of Alabama  
23 1975, is amended to read as follows:

24           "§34-37-15.

1           "(a) The following acts, work, and conduct may be  
 2 performed by anyone, without license or certificate, provided,  
 3 however, that all work and services herein named or referred  
 4 to shall be subject to an inspection and approval in  
 5 accordance with the terms of all state laws and applicable  
 6 municipal ordinances:

7           "~~(1) Plumbing work done by a property owner in or~~  
 8 ~~about a building owned or occupied by him or her.~~

9           "(1) Gas ~~(2) Plumbing or gas~~ fitting work done by  
 10 anyone who is regularly employed or acting as a maintenance  
 11 man acting under the supervision of a maintenance engineer or  
 12 maintenance engineer incidental to and in connection with the  
 13 business in which he or she is employed and engaged, provided  
 14 the ~~plumbing or~~ gas fitting work is done on the premises of  
 15 the employer, and who does not engage in the occupation of a  
 16 plumber or gas fitter for the general public.

17           "(2) ~~(3)~~ Maintenance and reinstallation work done  
 18 upon the premises or equipment of a railroad, other businesses  
 19 or industry, by an employee thereof who does not engage in the  
 20 occupation of a plumber or gas fitter for the general public.

21           "(3) ~~(4)~~ Plumbing or gas fitting work done by  
 22 persons engaged by any public utility company in the laying,  
 23 maintenance, and operation of its service mains or lines and  
 24 the installation, alteration, adjustment, repair, removal, and  
 25 renovation of all types of appurtenances, equipment, and

1 appliances, provided such plumbing work does not necessitate  
 2 tying into waste or sewer lines on the outlet side of a trap  
 3 or alter gas piping on consumer side of meter.

4 "(4) +5) Appliances or fixture installations and  
 5 service work done in connecting appliances or fixtures to  
 6 existing piping installations.

7 "(b) +6) Any person may install washing machines to  
 8 existing piping installation or waste lines, provided such  
 9 plumbing work does not necessitate tying into waste or sewer  
 10 lines on the outlet side of the trap.

11 "(c) This (b) The provisions of this chapter shall  
 12 not apply to any natural gas utility company having fewer than  
 13 350 employees that is regulated by the Alabama Public Service  
 14 Commission.

15 "(d) This chapter does not apply to any plumbing  
 16 work done by a property owner in or about a building owned or  
 17 occupied by him or her, or plumbing work done by anyone who is  
 18 regularly employed by the property owner to provide  
 19 maintenance or other repair services if the work is incidental  
 20 to and in connection with the property for which he or she is  
 21 employed and engaged and is done on the premises of the  
 22 employer."

23 Section 4. The Legislature concurs in the  
 24 recommendations of the Sunset Committee as provided in  
 25 Sections 1, 2, and 3.

1                   Section 5. This act shall become effective  
2 immediately upon its passage and approval by the Governor, or  
3 its otherwise becoming law.

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*[Handwritten signature]*

Speaker of the House of Representatives

*Kay Ivey*

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 29-MAR-11, as amended.

Greg Pappas  
Clerk

Senate

14-APR-11

Passed

APPROVED *April 21, 2011*  
TIME *9:10 a.m.*  
*Robert Bentley*  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2011-152  
Bill Num....: H-37

Recv'd 04/21/11 01:52pmJJB

## **Board Members**

NO BOARD MEMBERS ARE CURRENTLY SERVING



## **RESPONSE TO SIGNIFICANT ISSUES**

10/6/2011

The board responded by email giving one response to be applied to each issue which states, “That is a correct statement of facts.”